

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: S2/13/03 H2/21/03

A Bill

Act 296 of 2003
SENATE BILL 218

5 By: Senators Bisbee, Altes, Broadway, Glover, G. Jeffress, J. Jeffress, T. Smith, Wooldridge, J. Bookout,
6 Lavery, Trusty, *Horn*
7 By: Representatives Bolin, Rosenbaum, Bennett, Bledsoe, Borhauer, Cowling, Dangeau, Dees, Gillespie,
8 Green, Haak, Hardwick, Harris, Hathorn, House, Hutchinson, Judy, Kenney, Matayo, Mathis, Medley,
9 Parks, Petrus, R. Smith, Walters, Pritchard, Anderson

For An Act To Be Entitled

10
11
12 AN ACT TO CLARIFY AND CONFIRM THE POWERS OF THE
13 STATE HIGHWAY COMMISSION REGARDING THE
14 CONSTRUCTION OF TURNPIKE PROJECTS AND ISSUANCE OF
15 REVENUE BONDS TO FINANCE THE TURNPIKE PROJECTS;
16 TO REPEAL ARKANSAS CODE TITLE 27, CHAPTER 71,
17 SUBCHAPTERS 1, 2, 3, AND 4, REGARDING THE
18 ARKANSAS TURNPIKE AUTHORITY AND TURNPIKE
19 PROJECTS; TO DECLARE AN EMERGENCY; AND FOR OTHER
20 PURPOSES.
21

Subtitle

22
23 TO CLARIFY AND CONFIRM THE POWERS OF THE
24 STATE HIGHWAY COMMISSION REGARDING THE
25 CONSTRUCTION OF TURNPIKE PROJECTS AND
26 ISSUANCE OF REVENUE BONDS TO FINANCE THE
27 TURNPIKE PROJECTS.
28

29
30
31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

32
33 SECTION 1. Arkansas Code § 27-90-201 is amended to read as follows:

34 27-90-201. Definitions.

35 As used in this subchapter, unless the context otherwise requires:

36 (1) "Bonds", "turnpike revenue bonds", or "revenue bonds" means



1 revenue bonds or notes of the commission authorized under and issued under
2 this subchapter;

3 ~~(1)~~(2) "Commission" means the State Highway Commission;

4 (3)(A) "Costs" or "project costs" means all direct and indirect costs
5 incurred in connection with the acquisition of rights-of-way for and
6 constructing and equipping turnpike projects, including, without limitation:

7 (i) The cost of the acquisition of all lands, rights-of-
8 way, property, rights, easements, and interests acquired by the commission;

9 (ii) The cost of demolishing or removing buildings or
10 structures on the land so acquired;

11 (iii) The cost of acquiring any lands to which those
12 buildings or structures may be moved;

13 (iv) The cost of all machinery and equipment;

14 (v) Financing charges, interest prior to and during
15 construction and for a period after construction;

16 (vi) The establishment of necessary funds and reserves;

17 (vii) The cost of traffic estimates, engineering fees,
18 legal fees, plans, specifications, surveys, estimates of cost and revenues;

19 (viii) Any other expenses or expenditures necessary or
20 incidental to determining the feasibility or practicability of a turnpike
21 project, administration expense; and

22 (ix) Any other expense, cost, or expenditure necessary or
23 incidental to the construction of a turnpike project, the financing of the
24 construction and the placing of the turnpike project into operation.

25 (B) Any obligation, expense, or expenditure incurred or made by
26 the commission, or any other state agency or department for matters
27 pertaining to a turnpike project, including, without limitation, feasibility
28 studies, traffic surveys, borings, preparation of plans and specifications,
29 engineering services, and any other expenses, costs, or expenditures of
30 whatever nature shall be regarded as part of the costs of a turnpike project
31 and may be reimbursed to the commission or other agency or department of the
32 state out of the proceeds of revenue bonds or out of any other available
33 funds of the commission;

34 (4) "Debt service" means the amounts necessary for paying principal,
35 interest, trustee's and paying agent's fees, rebate costs, and the amounts
36 necessary to establish and maintain debt service reserves as provided in the

1 authorizing resolution or trust indenture identified under this subchapter;

2 (5) "Owner" means all individuals, partnerships, associations,
 3 corporations, or organizations having any title or interest in any property,
 4 rights, easements, and interest authorized to be acquired by and under the
 5 authority of this subchapter;

6 (6) "Person" means any individual, partnership, corporation, or other
 7 entity recognized by law as having power to contract;

8 ~~(2)~~(7) "Project" or "turnpike project" means any express highway or
 9 highway on or a part of the state highway system constructed, reconstructed,
 10 or rehabilitated under the provisions of this ~~chapter~~ subchapter by the
 11 commission, including, without limitation, lands, rights-of-way, bridges,
 12 tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches,
 13 toll houses, administration buildings, storage buildings, other buildings,
 14 and facilities which the commission may deem necessary or desirable for the
 15 operation of a turnpike project, together with all property, rights,
 16 easements, rights-of-way, and interest that may be acquired by the commission
 17 for or in connection with the construction or operation of a turnpike
 18 project; and

19 (8) "Revenues" or "turnpike project revenues" means, without
 20 limitation, all tolls, rentals, license and permit revenues, contractual
 21 receipts, gifts, grants, moneys, charges, and other funds, including federal-
 22 aid highway funds, and property of whatever nature coming into the possession
 23 of or under the control of the commission by virtue of this subchapter,
 24 except the proceeds derived from the sale of revenue bonds issued under this
 25 subchapter.

26
 27 SECTION 2. Arkansas Code § 27-90-202 is amended to read as follows:

28 27-90-202. Authority of commission to undertake turnpike projects.

29 ~~(a) In addition to all other authority of the commission, the~~
 30 ~~commission shall have the authority to undertake turnpike projects.~~

31 ~~(b) No turnpike project shall be undertaken.~~

32 ~~(1) Unless and until the turnpike project involved shall have~~
 33 ~~been thoroughly studied with respect to traffic, engineering, costs, and~~
 34 ~~financing; and~~

35 ~~(2) Unless the commission makes, by resolution duly entered in~~
 36 ~~the records of the commission, a determination based upon study that public~~

1 ~~funds, or funds available from any other source, for construction,~~
2 ~~reconstruction, or rehabilitation of a free, without toll, highway are not~~
3 ~~sufficient.~~

4 (a) The State Highway Commission is authorized and empowered to:

5 (1)(A) Acquire, by purchase or exercise of its powers of eminent
6 domain, sites, and rights-of-way for and to construct, maintain, repair, and
7 operate turnpike projects at such locations as it shall determine in
8 accordance with proper design and construction standards.

9 (B)(i) Turnpike projects shall be constructed in
10 accordance with applicable laws pertaining to competitive bidding,
11 contracting, performance and payment bonds, and other matters applicable to
12 similar highway construction by the commission;

13 (ii) However, turnpike projects developed in
14 cooperation with other states, agencies, or political subdivisions thereof,
15 or nonmember, nonstock transportation corporations created under the laws of
16 another state, may be developed, operated, and maintained on the basis of
17 contracts for the design, engineering, procurement and construction, and like
18 arrangements for the integrated development of turnpike projects, or pursuant
19 to the basis for the development, operation and maintenance of a turnpike
20 project permitted under the laws of another state, upon the commission's
21 setting forth in a resolution its finding that any such arrangement is the
22 preferable method for development of the turnpike project and the reasons for
23 such finding;

24 (2) Apply for, receive, accept, and use any moneys and
25 properties from agencies of the Government of the United States, from any
26 state or other governmental agency or political subdivision, from any public
27 or private corporation, agency, or organization of any nature, and from any
28 individual or group of individuals;

29 (3) Establish accounts in one (1) or more banks, and thereafter
30 from time to time make deposits in and withdrawals from such accounts and
31 otherwise invest or reinvest its money;

32 (4) Obtain the necessary funds for financing the objects
33 specified in this subchapter, including, without limitation, the proceeds of
34 the sale of revenue bonds as authorized in this subchapter;

35 (5) Fix, revise from time to time, charge, and collect tolls for
36 transit over each turnpike project constructed;

1 (6) Establish rules and regulations for the use of each turnpike
2 project;

3 (7) Employ consulting engineers, attorneys, accountants,
4 construction and financial experts, superintendents, and other employees and
5 agents that may be necessary in its judgment;

6 (8) Enter into and implement any agreements or compacts with the
7 United States of America or any state or any department or agency of the
8 United States or of any state, or a political subdivision of any state, or
9 any person concerning operation, revenues or other matters pertaining to
10 planning, financing, constructing, and operating turnpike projects leading
11 from this state into another state or states and turnpike projects to be
12 developed and operated jointly, whether by the commission, by another party
13 to the agreement or compact, by an agency created pursuant to the agreement
14 or compact or by another person, whether or not leading from this state into
15 another state or states; and

16 (9) Take such other action, not inconsistent with law, as may be
17 necessary or desirable to carry out the powers conferred by this subchapter
18 and to carry out the intent and purposes of this subchapter.

19 ~~(e)~~(b) Each turnpike project shall be separately designated by
20 appropriate name or number and may be constructed, reconstructed,
21 rehabilitated, or extended in sections and stages as the commission may from
22 time to time determine.

23
24 SECTION 3. Arkansas Code § 27-90-203 is amended to read as follows:

25 27-90-203. Authority of commission to collect tolls.

26 (a)~~(1)~~ The commission is authorized to fix, revise, charge, and
27 collect tolls for the use of each turnpike project and the different parts or
28 sections thereof and to contract with any person, partnership, association,
29 corporation, or organization desiring the use of any part thereof, including
30 the right-of-way adjoining the paved portion, for placing thereon telephone,
31 telegraph, electric light or power lines, and other facilities or
32 improvements, or for any other purpose, and to fix the terms, conditions,
33 rents, and rates of charges for use.

34 ~~(2) However, public utilities of the state, rural electric and~~
35 ~~telephone cooperatives, political subdivisions, and pipeline companies may~~
36 ~~construct and maintain crossings of turnpike projects with their facilities,~~

1 ~~without charge, if the facilities are constructed and maintained in~~
2 ~~compliance with reasonable requirements of public safety and all costs of~~
3 ~~restoring the project to as good a condition as it was before being disturbed~~
4 ~~are paid by the owner of the facilities.~~

5 (b) The tolls authorized by this subchapter shall not be subject to
6 supervision or regulation by any other commission, board, bureau, or agency
7 of the State of Arkansas.

8
9 SECTION 4. Arkansas Code § 27-90-204 is amended to read as follows:

10 27-90-204. Revenue - use of revenues.

11 ~~(a) All revenue derived from this subchapter shall be classified as~~
12 ~~special revenues and shall be deposited in the state treasury.~~

13 ~~(b) The net amount thereof shall be transferred by the Treasurer of~~
14 ~~State on the last business day of each month to the Arkansas State Highway~~
15 ~~and Transportation Department, there to be used for the maintenance,~~
16 ~~operation, and improvement required by the Arkansas State Highway and~~
17 ~~Transportation Department in carrying out its functions, powers, and duties.~~

18 (a) Revenues derived from any turnpike project that are used to secure
19 revenue bonds shall be deposited in a bank or banks selected by the
20 commission.

21 (b) The turnpike project revenues are declared to be cash funds,
22 restricted in their use, and dedicated and to be used solely as authorized in
23 this subchapter.

24 (c) The revenues shall be used for the following purposes subject to
25 the order and priority provided in the trust indenture or the authorizing
26 resolution:

27 (1) To pay the reasonable expenses of maintenance, repair, and
28 operation of the turnpike project or projects involved;

29 (2) To pay as due the debt service on all revenue bonds to which
30 revenues of the turnpike project or projects are pledged, including the
31 original issue or issues, bonds issued for reconstruction and extension, and
32 refunding bonds, as authorized in this subchapter;

33 (3) For the establishing, or once established, for maintaining
34 any reserves as provided in the authorizing resolution or the trust
35 indenture;

36 (4) For the redemption of bonds prior to maturity, if provision

1 is made for redemption, all as shall be specified in detail in the trust
2 indenture, and all indentures supplemental thereto, securing the bonds;

3 (5) To pay as due the debt service on turnpike projects other
4 than the turnpike project from which derived;

5 (6) Any other revenue shall be transferred to the Treasurer of
6 State, who shall transfer such revenue to the Arkansas State Highway and
7 Transportation Department, there to be used for the maintenance, operation,
8 and improvement required by the Arkansas State Highway and Transportation
9 Department in carrying out its functions, powers, and duties; and

10 (7) For other lawful commission purposes.

11 (d) Turnpike project revenues shall not be subject to the provisions
12 in § 27-70-206.

13
14 SECTION 5. Arkansas Code Title 27, Chapter 90, Subchapter 2 is amended
15 to add additional sections to read as follows:

16 27-90-205. Issuance to finance turnpike projects.

17 (a) The commission may issue turnpike revenue bonds from time to time
18 in principal amounts sufficient to pay the costs of a turnpike project.

19 (b) For a turnpike project:

20 (1) There may be more than one (1) issue of bonds;

21 (2) There may be one (1) issue sold and delivered in series;

22 (3) There may be a subsequent issue or subsequent issues of
23 bonds for all or any of the following purposes:

24 (A) Completing the construction of a turnpike project;

25 (B) Reconstruction work on a turnpike project when the
26 amount involved is such that it cannot be handled as an item of maintenance
27 and repair out of turnpike project revenues;

28 (C) The extension of a turnpike project; or

29 (D) The refunding of any prior issues of bonds as provided
30 under § 27-90-212.

31 (c) The issues under subdivision (b)(3) of this section are subject in
32 each instance to such conditions concerning available and estimated turnpike
33 project revenues and other conditions ensuring prompt payment of the debt
34 service on subsequent bond issues as the commission shall determine and
35 specify in its authorizing resolution or in the trust indenture securing the
36 bonds.

1 (d) In all instances, priority between and among issues and successive
2 issues shall be controlled by the authorizing resolution or by the trust
3 indenture securing the bonds.

4 (e) Turnpike revenue bonds shall have all the qualities of negotiable
5 instruments under the laws of the State of Arkansas, subject to the
6 provisions of this subchapter regarding registration.

7
8 27-90-206. Authorizing resolution – Terms.

9 (a) Turnpike revenue bonds shall be authorized by resolution of the
10 commission, the "authorizing resolution".

11 (b) The bonds may be registrable as to both principal and interest
12 without coupons and may be made exchangeable for bonds of another
13 denomination.

14 (c) The bonds may:

15 (1) Be in such form and denominations;

16 (2) Have such date or dates;

17 (3) Mature at such time or times;

18 (4) Bear interest payable at such time or times and at such rate
19 or rates, including variable rates;

20 (5) Be payable at such place or places within or without the
21 State of Arkansas;

22 (6) Be subject to such terms of redemption in advance of
23 maturity at such prices, including such premiums; and

24 (7) Contain such terms and provisions, all as the commission
25 shall determine.

26 (d) The authorizing resolution may contain any other terms, covenants,
27 and conditions that are deemed desirable by the commission, including,
28 without limitation:

29 (1) Those pertaining to the custody, investment, and application
30 of bond proceeds;

31 (2) The maintenance and investment of various funds and
32 reserves;

33 (3) The nature and extent of the security; and

34 (4) The rights, duties, and obligations of the commission and of
35 the holders and registered owners of the bonds.

36 (e) Interest on the bonds may be payable currently or on a compound

1 basis.

2 (f) The commission may enter into any contracts which it determines to
3 be necessary or appropriate to achieve desirable effective interest rates on
4 bonds and the mitigation of investment and interest rate risk by means of,
5 but not limited to, contracts commonly known as investment and interest rate
6 contracts, funding agreements, interest rate swap agreements, or contracts
7 providing for payments based on levels of or changes in interest rates, or
8 contracts.

9
10 27-90-207. Trust indenture.

11 (a) The authorizing resolution may provide for the execution by the
12 commission with a bank or trust company within or without the State of
13 Arkansas of a trust indenture.

14 (b) The trust indenture may control the priority between and among
15 successive issues and series and may contain any other terms, covenants, and
16 conditions that are deemed desirable, including, without limitation:

17 (1) Terms pertaining to the custody, application, and investment
18 of the proceeds of bonds;

19 (2) The collection, disposition, and investment of turnpike
20 project revenues;

21 (3) The maintenance and investment of various funds and
22 reserves;

23 (4) The nature and extent of the security, the rights, duties,
24 and obligations of the commission and the trustee for the holders or
25 registered owners of the bonds; and

26 (5) The rights of the holders or registered owners of the bonds.

27
28 27-90-208. Sale.

29 (a) Bonds issued under this subchapter may be sold at public or
30 private sale, as determined by the commission.

31 (b) If sold at public sale, the bonds shall be sold on electronic or
32 sealed bids, and notice of the sale shall be published once in a newspaper
33 published in the City of Little Rock, and having a general circulation
34 throughout the State of Arkansas, at least twenty (20) days prior to the date
35 of sale.

36 (c)(1) In either case, the bonds may be sold at a price as the

1 commission may accept, including sale at a premium or a discount.

2 (2) In no event shall any bid or price be accepted which results
3 in an interest cost exceeding that permitted by law.

4
5 27-90-209. Execution.

6 (a) Bonds shall be executed by the manual or facsimile signatures of
7 the chair of the commission and the secretary of the commission or otherwise
8 as specified in the resolution authorizing the bonds.

9 (b) In case any of the officers or the secretary whose signatures
10 appear on the bonds or coupons shall cease to be officers or the secretary
11 before the delivery date of the bonds, their signatures shall, nevertheless,
12 be valid and sufficient for all purposes.

13
14 27-90-210. Liability on bonds.

15 (a) It shall be plainly stated on the face of each bond that it has
16 been issued under this subchapter, and the bonds issued shall be obligations
17 only of the commission and shall be special obligations, secured solely by
18 pledges of turnpike project revenues or specifically designated federal
19 grants.

20 (b) No member of the commission shall be personally liable on the
21 bonds or for any damages sustained by anyone in connection with any contracts
22 entered into in carrying out the purposes and intent of this subchapter,
23 unless that member shall have acted with a corrupt intent.

24
25 27-90-211. Security and payment.

26 (a)(1) The principal of and interest on all bonds issued under this
27 subchapter shall be secured by a pledge of, and shall be payable from,
28 turnpike project revenues.

29 (2) The pledge of revenues to the payment of the principal of
30 and interest on the bonds shall be valid and binding from the time the pledge
31 is made.

32 (3) The turnpike project revenues so pledged shall immediately
33 be subject to the lien of the pledge without any physical delivery thereof or
34 further act.

35 (4) The lien of the pledge shall be valid and binding as against
36 all parties having claims of any kind in tort, contract or otherwise against

1 the commission, irrespective of whether such parties have notice thereof.

2 (5) Neither the authorizing resolution nor any trust indenture
3 by which a pledge is created need be filed or recorded in any office or other
4 place except in the records of the commission.

5 (b)(1) Principal and interest shall not be secured by a statutory or
6 foreclosable mortgage lien on a turnpike project, any of the facilities of or
7 in connection with a turnpike project, or any other facilities owned or
8 operated by the commission.

9 (2) The term "facilities" includes all real and personal
10 property owned or operated by the commission.

11 (c)(1) Each resolution authorizing the issuance of bonds and each
12 trust indenture executed and delivered to secure the bonds in this subchapter
13 shall constitute a contract by and between the commission and the holders and
14 registered owners of the bonds issued under the resolution or trust
15 indenture.

16 (2) Any contract and all covenants, agreements, and obligations
17 therein, including, without limitation, an obligation on the part of the
18 commission to operate a turnpike project as a revenue producing undertaking
19 so long as any bonds are outstanding, to maintain the turnpike project, and
20 to charge and collect turnpike project revenues in required amounts, all as
21 specified in detail in the authorizing resolution, the trust indenture, and
22 in this subchapter shall be promptly performed in accordance with the terms
23 and provisions of the contract.

24 (3) The contract and all rights of the trustee and holders and
25 registered owners of the bonds and the obligations of the commission may be
26 enforced by mandamus or any other appropriate proceeding at law or in equity.

27
28 27-90-212. Refunding bonds.

29 (a) Revenue bonds may be issued for the purpose of refunding any bonds
30 issued under this subchapter.

31 (b) Refunding bonds may be combined into a single issue with revenue
32 bonds issued for the purpose of completing, reconstructing, or extending the
33 turnpike project.

34 (c) Refunding bonds may either be sold or delivered in exchange for
35 the bonds being refunded.

36 (d) If sold, the proceeds may be either applied to the payment of the

1 bonds being refunded or deposited in trust and there maintained in cash or
2 investments for the retirement thereof, as shall be specified in the
3 authorizing resolution or trust indenture securing the refunding bonds.

4 (e) The authorizing resolution and the trust indenture securing the
5 refunding bonds may provide that the refunding bonds shall have the same
6 priority of lien on turnpike project revenues pledged for their payment as
7 was enjoyed by the bonds refunded thereby.

8 (f) Refunding bonds shall be sold and secured in accordance with the
9 provisions of this subchapter pertaining to the sale and security of revenue
10 bonds.

11
12 27-90-213. Scope of revenue bonds as securities.

13 (a) Revenue bonds issued under this subchapter are made securities in
14 which all insurance companies, trust companies, banks, investment companies,
15 executors, administrators, trustees, and other fiduciaries may properly and
16 legally invest funds, including capital in their control or belonging to
17 them.

18 (b) The bonds are made securities which may properly and legally be
19 deposited with and received by any state, county, municipal officer, any
20 agency, or political subdivision of the state for any purpose for which the
21 deposit of bonds or obligations of the state is now or may be authorized by
22 law.

23 (c) Any municipality or county, or any board, commission, or other
24 authority established by any municipality or county, or the boards of
25 trustees, respectively, of any retirement fund or retirement system created
26 by or pursuant to authority conferred by the General Assembly may, in its
27 discretion, invest any of its funds not immediately needed for its purposes
28 in bonds issued under this subchapter.

29 (d) Bonds issued under this subchapter shall be eligible to secure the
30 deposit of public funds.

31
32 27-90-214. Tax exemption.

33 (a) The principal of and interest on bonds issued under this
34 subchapter shall be exempt from all state, county, and municipal taxes, and
35 this exemption shall include income, inheritance, and estate taxes.

36 (b) All turnpike projects and all the properties thereof are

1 legislatively determined and declared to be public properties used
 2 exclusively for public purposes. The legislative intent is that turnpike
 3 projects and all properties thereof shall be exempt from ad valorem taxes
 4 under and pursuant to the provisions of Arkansas Constitution, Article 16,
 5 Section 5.

6
 7 27-90-215. Construction- Scope of authority.

8 (a)(1) This subchapter shall be construed liberally.

9 (2) All acts and activities authorized by this subchapter are
 10 legislatively determined and declared to be essential governmental functions.

11 (b) The commission is empowered to take such action and do or cause to
 12 be done such things as shall be necessary or desirable to accomplish and
 13 implement the purposes and intent of this subchapter according to the import
 14 hereof, with the action taken by the commission or the things done or caused
 15 to be done by the commission pursuant to the provisions of this subchapter
 16 being determined and declared to be ministerial rather than legislative in
 17 nature.

18 (c) Nothing contained in this subchapter shall be construed to
 19 restrict the commission or the State of Arkansas in the issuance or
 20 incurrence of debt under other applicable laws.

21
 22 SECTION 6. Arkansas Code § 27-65-115 is amended to read as follows:

23 27-65-115. Transfer of federal-aid funds to Arkansas Turnpike
 24 Authority.

25 Notwithstanding any provision of law to the contrary, the State Highway
 26 Commission is hereby authorized ~~to transfer~~, in its discretion, ~~to the~~
 27 ~~Arkansas Turnpike Authority, as established by § 27-71-201 et seq.,~~ to use
 28 any federal-aid highway funds apportioned or allocated to the State of
 29 Arkansas by the United States Secretary of Transportation or the Federal
 30 Highway Administration, which funds are authorized or may be authorized in
 31 the future by the United States Congress to be utilized in assisting in the
 32 construction of or for the purposes of assisting in the paying of the debt
 33 service on revenue bonds issued for the construction of any turnpike project
 34 or projects in this state, which project or projects may be undertaken ~~by the~~
 35 ~~Arkansas Turnpike Authority in accordance with § 27-71-101 et seq~~ by the
 36 commission under §§ 27-90-201 through 27-90-215.

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SECTION 7. Arkansas Code §§ 27-71-101 through 27-71-105 are repealed.
~~27-71-101.—Title.~~

~~This chapter may be referred to and cited as the "Arkansas Turnpike Authority Act".~~

~~27-71-102.—Construction—Scope of authority.~~

~~(a) This chapter shall be construed liberally. All acts and activities of the authority authorized by this chapter are legislatively determined and declared to be essential governmental functions.~~

~~(b) In this regard, it is determined and declared that this chapter is the sole authority necessary for the performance of the acts authorized, including, without limitation, the issuance of bonds.~~

~~(c) The authority is empowered to take such action and do or cause to be done such things as shall be necessary or desirable to accomplish and implement the purposes and intent of this chapter according to the import hereof with the action taken by the authority or the things done or caused to be done by the authority pursuant to the provisions of this section being determined and declared to be ministerial rather than legislative in nature.~~

~~27-71-103.—Definitions.~~

~~As used in this chapter, unless the context otherwise requires:~~

~~(1) "Authority" means the Arkansas Turnpike Authority created by this chapter;~~

~~(2) "Project" or "turnpike project" means any express highway constructed under the provisions of this chapter by the authority, including, without limitation, lands, rights of way, bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, toll houses, service stations, administration buildings, storage buildings, other buildings, and facilities which the authority may deem necessary or desirable for the operation of a turnpike project, together with all property, rights, easements, rights of way, and interest that may be acquired by the authority for or in connection with the construction or operation of a turnpike project. Each turnpike project shall be separately designated by appropriate name or number and may be constructed, reconstructed, or extended in sections and stages as the authority may from time to time determine;~~

1 ~~(3) "Costs" or "project costs" embraces all direct and indirect costs~~
2 ~~incurred in connection with the acquisition of rights of way for and~~
3 ~~constructing and equipping turnpike projects, including, without limitation,~~
4 ~~the cost of the acquisition of all lands, rights of way, property, rights,~~
5 ~~easements, and interest acquired by the authority, the cost of demolishing or~~
6 ~~removing buildings or structures on the land so acquired, the cost of~~
7 ~~acquiring any lands to which those buildings or structures may be moved, the~~
8 ~~cost of all machinery and equipment, financing charges, interest prior to and~~
9 ~~during construction and for a period of not exceeding one (1) year after~~
10 ~~construction, the establishment of necessary funds and reserves, the cost of~~
11 ~~traffic estimates, engineering fees, legal fees, plans, specifications,~~
12 ~~surveys, estimates of cost and revenues, any other expenses or expenditures~~
13 ~~necessary or incidental to determining the feasibility or practicability of a~~
14 ~~turnpike project, administration expense, and any other expense, cost, or~~
15 ~~expenditure necessary or incidental to the construction of a turnpike~~
16 ~~project, the financing of the construction and the placing of the turnpike~~
17 ~~project into operation. Any obligation, expense, or expenditure incurred or~~
18 ~~made by the State Highway Commission, or any other state agency or department~~
19 ~~with the authority or prior or subsequent approval of the authority for~~
20 ~~matters pertaining to a turnpike project, including, without limitation,~~
21 ~~traffic surveys, borings, preparation of plans and specifications,~~
22 ~~engineering services, and any other expenses, costs, or expenditures of~~
23 ~~whatever nature shall be regarded as part of the costs of a turnpike project~~
24 ~~and may be reimbursed to the State Highway Commission or other agency or~~
25 ~~department of the state out of the proceeds of revenue bonds hereafter~~
26 ~~authorized or out of any other available funds of the authority;~~

27 ~~(4) "Public roads" or "public highways" means all public highways and~~
28 ~~roads which at any time are part of the state highway system and all roads~~
29 ~~and highways which are part of the county road system of the State of~~
30 ~~Arkansas and all streets and roadways maintained by any municipality,~~
31 ~~improvement district, or political subdivision in the State of Arkansas;~~

32 ~~(5) "Bonds", "turnpike revenue bonds", or "revenue bonds" means~~
33 ~~revenue bonds of the authority authorized under and issued pursuant to~~
34 ~~authorization conferred by this chapter;~~

35 ~~(6) "Owner" means all individuals, partnerships, associations,~~
36 ~~corporations, or organizations having any title or interest in any property,~~

1 ~~rights, easements, and interest authorized to be acquired by and under the~~
 2 ~~authority conferred by this chapter;~~

3 ~~(7) "Revenues" or "turnpike project revenues" embraces all tolls,~~
 4 ~~rentals, turnpike gasoline tax revenues, gifts, grants, moneys, charges, and~~
 5 ~~other funds, including federal aid highway funds, and property of whatever~~
 6 ~~nature coming into the possession of or under the control of the authority by~~
 7 ~~virtue of this chapter, except the proceeds derived from the sale of revenue~~
 8 ~~bonds issued under the provisions of this chapter;~~

9 ~~(8) "Debt service" means the amounts necessary for paying principal,~~
 10 ~~interest, trustee's, and paying agent's fees and the amounts necessary to~~
 11 ~~establish and maintain debt service reserves as provided in the authorizing~~
 12 ~~resolution or trust indenture identified hereinafter.~~

13
 14 ~~27-71-104. Ad valorem tax exemption.~~

15 ~~(a) All turnpike projects and all the properties thereof are~~
 16 ~~legislatively determined and declared to be public properties used~~
 17 ~~exclusively for public purposes.~~

18 ~~(b) The legislative intent is that turnpike projects and all~~
 19 ~~properties thereof shall be exempt from ad valorem taxes under and pursuant~~
 20 ~~to the provisions of Arkansas Constitution, Article 16, Section 5.~~

21
 22 ~~27-71-105. No right of any character created until sale and delivery~~
 23 ~~of bonds.~~

24 ~~This chapter shall not create any right of any character, and no right~~
 25 ~~of any character shall arise under or pursuant to it unless and until bonds~~
 26 ~~issued under this chapter have been actually sold and delivered by the~~
 27 ~~authority.~~

28
 29 SECTION 8. Arkansas Code §§ 27-71-201 through 27-71-210 are repealed.

30 ~~27-71-201. Creation.~~

31 ~~There is created and established an authority to be known as the~~
 32 ~~"Arkansas Turnpike Authority".~~

33
 34 ~~27-71-202. Members.~~

35 ~~(a) The authority shall consist of five (5) members, made up of the~~
 36 ~~five (5) individuals who are serving from time to time as the members of the~~

1 ~~State Highway Commission.~~

2 ~~(b) The term of office of each member shall be the same as, and run~~
3 ~~concurrently with, each individual's tenure on the State Highway Commission.~~

4
5 ~~27-71-203. Organization.~~

6 ~~The individual serving as chairman from time to time of the State~~
7 ~~Highway Commission shall be chairman of the authority, and the Director of~~
8 ~~State Highways and Transportation shall be the secretary of the authority.~~

9
10 ~~27-71-204. Secretary—Bond.~~

11 ~~(a) The secretary shall be the authority's disbursing agent and~~
12 ~~executive officer.~~

13 ~~(b) The secretary shall furnish bond to the State of Arkansas, with a~~
14 ~~corporate surety, in the penal sum of fifty thousand dollars (\$50,000). This~~
15 ~~bond shall be conditioned that he will faithfully perform his powers,~~
16 ~~functions, and duties and properly handle all funds received and disbursed by~~
17 ~~him and account therefor.~~

18 ~~(c) An additional disbursing agent's bond shall not be required of the~~
19 ~~secretary.~~

20 ~~(d) The premium on the bond shall be a proper charge against funds of~~
21 ~~the authority.~~

22
23 ~~27-71-205. Meetings.~~

24 ~~(a) Meetings of the authority shall be held on call by the chairman or~~
25 ~~by any three (3) or more members on advance notice to each member, at such~~
26 ~~place as may suit the authority's convenience.~~

27 ~~(b) Meetings of the authority shall be open to the public, and records~~
28 ~~of the proceedings shall be kept.~~

29 ~~(c) A quorum for the transaction of business at any meeting shall~~
30 ~~consist of not less than three (3) members.~~

31 ~~(d) The affirmative vote of three (3) members shall be requisite for~~
32 ~~the authorizing or approving of any action or the passage or adoption of any~~
33 ~~motion or resolution.~~

34
35 ~~27-71-206. Powers—Generally.~~

36 ~~The authority is authorized and empowered to:~~

1 ~~(1) Acquire by purchase or exercise of eminent domain sites and~~
2 ~~rights of way for and to construct, maintain, repair, and operate turnpike~~
3 ~~projects as defined in this chapter at such locations within the state as it~~
4 ~~shall determine in accordance with proper design and construction standards.~~
5 ~~Projects shall be constructed in accordance with applicable laws pertaining~~
6 ~~to competitive bidding, contracting, performance, and payment bonds, and~~
7 ~~other matters applicable to similar highway construction by the State Highway~~
8 ~~Commission, which laws, as they may be amended or changed from time to time,~~
9 ~~are incorporated by reference;~~

10 ~~(2) Apply for, receive, accept, and use any moneys and properties from~~
11 ~~agencies of the Government of the United States, from any state or other~~
12 ~~governmental agency, from any public or private corporation, agency, or~~
13 ~~organization of any nature, and from any individual or group of individuals;~~

14 ~~(3) Invest and reinvest any of its moneys;~~

15 ~~(4) Establish accounts in one (1) or more banks, and thereafter from~~
16 ~~time to time make deposits in and withdrawals from such accounts;~~

17 ~~(5) Contract and be contracted with;~~

18 ~~(6) Obtain the necessary funds for financing the objects specified in~~
19 ~~this section, including, without limitation, the proceeds of the sale of~~
20 ~~revenue bonds as in this chapter authorized;~~

21 ~~(7) Purchase, lease, or rent and receive bequests or donations of, and~~
22 ~~sell or barter, any property bequeathed or donated to it not needed or which~~
23 ~~cannot be used in the form received;~~

24 ~~(8) Fix, revise from time to time, and charge and collect tolls for~~
25 ~~transit over each turnpike project constructed by it;~~

26 ~~(9) Establish rules and regulations for the use of each turnpike~~
27 ~~project;~~

28 ~~(10) Employ consulting engineers, attorneys, accountants, construction~~
29 ~~and financial experts, superintendents, and other employees and agents that~~
30 ~~may be necessary in its judgment;~~

31 ~~(11) Enter into and implement any agreements or compacts with the~~
32 ~~United States of America or any state or any department or agency of the~~
33 ~~United States or of any state, concerning operation, revenues or other~~
34 ~~matters pertaining to planning, financing, constructing, and operating~~
35 ~~projects leading from this state into another state or states;~~

36 ~~(12) Enter into agreements with the State Highway Commission for the~~

1 ~~construction, maintenance, and operation of turnpike projects, and the~~
2 ~~authority and the commission are authorized to enter into and to implement~~
3 ~~any such agreements. In this connection, the authority is empowered to~~
4 ~~acquire and the commission is authorized to convey to the authority, for~~
5 ~~inclusion in a turnpike project, any portion of a public highway, including~~
6 ~~necessary lands and interests therein, constructed or under construction upon~~
7 ~~such terms and for consideration as the authority and the commission may~~
8 ~~agree. This subdivision (12) shall constitute the sole authority required,~~
9 ~~notwithstanding the provisions of any other laws pertaining to the~~
10 ~~disposition of state property;~~

11 ~~(13) Take such other action, not inconsistent with law, as may be~~
12 ~~necessary or desirable to carry out the powers conferred by this chapter and~~
13 ~~to carry out the intent and purposes of this chapter.~~

14
15 ~~27-71-207. Arrangements to study proposed turnpike projects.~~

16 ~~(a) The authority and the State Highway Commission are authorized to~~
17 ~~enter into arrangements or to enter into agreements, as may be determined by~~
18 ~~them to be necessary or desirable for the investigation and study of any~~
19 ~~proposed turnpike project or for the obtaining and use of outside engineering~~
20 ~~and traffic and other expert studies, all as may be necessary or desirable in~~
21 ~~connection with a proposed turnpike project, with all expenses in connection~~
22 ~~therewith which are paid by the State Highway Commission to be deemed part of~~
23 ~~the project costs.~~

24 ~~(b) Upon the sale of bonds, all expenses incurred by the commission~~
25 ~~are to be reimbursed to the commission out of the proceeds of the bonds.~~

26
27 ~~27-71-208. Turnpike project prerequisites.~~

28 ~~No turnpike project shall be undertaken.~~

29 ~~(1) Unless and until the turnpike project involved shall have been~~
30 ~~thoroughly studied with respect to traffic, engineering, costs, and~~
31 ~~financing; and~~

32 ~~(2) Unless the authority makes, by resolution duly entered in the~~
33 ~~records of the authority, a determination based upon study that:~~

34 ~~(A) Public funds for construction of a free, without toll,~~
35 ~~highway expressway are not sufficient;~~

36 ~~(B) The construction of a toll highway expressway can be~~

1 ~~financed from the proceeds of revenue bonds and other available funds;~~

2 ~~(C) Projected revenues, exclusive of turnpike gasoline tax~~
3 ~~revenues, to be derived from operation of the turnpike project involved as~~
4 ~~reflected by the study and determination of the authority required by this~~
5 ~~section will be sufficient, together with any other funds available for the~~
6 ~~purpose, to provide for operation and maintenance expenses and to cover not~~
7 ~~less than eighty percent (80%) of the projected debt service on revenue bonds~~
8 ~~to be issued, as reflected by the study and determination of the authority~~
9 ~~required by this section; and~~

10 ~~(D) Projected revenues, including turnpike gasoline tax~~
11 ~~revenues, derived from operation of the turnpike project involved as~~
12 ~~reflected by the study and determination of the authority required by this~~
13 ~~section will be sufficient, together with any other funds available for the~~
14 ~~purpose, to provide for operation and maintenance expenses and to cover not~~
15 ~~less than one hundred percent (100%) of the projected debt service on revenue~~
16 ~~bonds to be issued, as reflected by the study and determination of the~~
17 ~~authority required by this section.~~

18
19 ~~27-71-209. Powers and duties—Turnpike projects.~~

20 ~~(a) In connection with the construction of any turnpike project, the~~
21 ~~authority is authorized to construct grade separations at intersections of~~
22 ~~any turnpike project with public highways and to change and adjust the lines~~
23 ~~and grades of public highways so as to accommodate the highway to the design~~
24 ~~of the grade separation. The cost of grade separations and any damages~~
25 ~~incurred in connecting and adjusting the lines and grades of public highways~~
26 ~~shall be ascertained and paid by the authority as part of the cost of the~~
27 ~~turnpike project involved.~~

28 ~~(b) If the authority shall find it necessary to change the location of~~
29 ~~any portion of a public highway, it shall cause the highway to be~~
30 ~~reconstructed at such location as the authority shall deem most favorable and~~
31 ~~at least of substantially the same type construction and substantially as~~
32 ~~good a condition as the public highway was in immediately prior to the~~
33 ~~reconstruction. The cost of the reconstruction and any damages incurred in~~
34 ~~connection with the changing of the location of the public highway shall be~~
35 ~~ascertained and paid by the authority as a part of the project costs.~~
36 ~~However, the authority shall not change the location of any portion of a~~

1 ~~public highway subject to the exclusive jurisdiction of a county court~~
2 ~~without the prior approval of the county court involved.~~

3 ~~(c) Any public highway affected by the construction of a turnpike~~
4 ~~project may be vacated or relocated by the authority in the manner now or~~
5 ~~hereafter provided by law for the vacation or relocation of public roads in~~
6 ~~the State of Arkansas, and any damages awarded on account thereof shall be~~
7 ~~paid by the authority as part of the project costs.~~

8 ~~(d) The authority and its authorized agents and employees may enter~~
9 ~~upon any lands, waters, and premises in the State of Arkansas for the purpose~~
10 ~~of making surveys, soundings, drillings, and examinations as they may deem~~
11 ~~necessary or desirable for the purposes of carrying out the authority~~
12 ~~conferred by this chapter. These entries shall not be deemed trespasses, nor~~
13 ~~shall entries for those purposes be deemed entries under any condemnation~~
14 ~~proceedings which may then be pending. The authority shall make reimbursement~~
15 ~~to the owners for any actual damage resulting to any lands, waters, and~~
16 ~~premises as a result of these activities, and these reimbursements shall be~~
17 ~~part of the project costs.~~

18 ~~(e) Whenever the authority shall determine that it is necessary for~~
19 ~~transmission facilities, such as tracks, pipes, mains, conduits, cables,~~
20 ~~wires, towers, poles, and other equipment and appliances of whatever nature~~
21 ~~existing or used in connection with public and private utilities, pipeline~~
22 ~~companies, or pipeline operators, which now are, or hereafter may be, located~~
23 ~~in, on, along, over, or under any turnpike project, to be relocated in such~~
24 ~~turnpike project, or be removed from the turnpike project, the owner or~~
25 ~~operator of the transmission facilities shall relocate or remove them in~~
26 ~~accordance with the order of the authority. However, the cost and expenses of~~
27 ~~relocation or removal, including the cost of installing facilities in a new~~
28 ~~location or locations, and the cost of any lands, or any rights or interest~~
29 ~~in lands, and any other rights, acquired to accomplish relocation or removal,~~
30 ~~shall be ascertained and paid by the authority as part of the project costs.~~

31 ~~(f) The State of Arkansas consents to the use by the authority of all~~
32 ~~lands and interest in lands owned by it, including lands lying under water,~~
33 ~~which are deemed by the authority to be necessary for the construction or~~
34 ~~operation of any turnpike project.~~

35 ~~(g) The power of eminent domain is expressly conferred upon the~~
36 ~~authority. In the event that any lands or interest therein, determined by the~~

1 authority to be necessary for any turnpike project, cannot be acquired by
2 negotiation, the authority is authorized to institute condemnation
3 proceedings for the acquisition of the lands or the interest therein desired
4 by the authority. Condemnation proceedings under the power of eminent domain
5 may be exercised in the manner now provided for taking private property for
6 rights of way for railroads as provided by §§ 18-15-1202—18-15-1207 and any
7 amendments hereafter made thereto, or in the manner provided by §§ 18-15-301
8 —18-15-307 and any amendments hereafter made thereto, or pursuant to any
9 other statutory provisions now in force or hereafter enacted for the exercise
10 of the power of eminent domain by the State of Arkansas or by any of its
11 officers, agencies, or departments. Title to, and all interest in, lands
12 acquired by the authority, by purchase or by condemnation, shall be taken in
13 the name of the authority.

14
15 ~~27-71-210. Audit of records and accounts of authority—Report.~~

16 ~~The agency of the State of Arkansas authorized by law to audit the~~
17 ~~records and accounts of the various state agencies is authorized and directed~~
18 ~~to audit the records and accounts of the authority and to furnish a copy of~~
19 ~~the report of the audit to the authority, to the Legislative Council, and to~~
20 ~~the Governor.~~

21
22 SECTION 9. Arkansas Code §§ 27-71-301 through 27-71-308 are repealed.

23 ~~27-71-301. Deposit of revenues.~~

24 ~~The revenues derived from the turnpike project shall be deposited, as~~
25 ~~and when received, into a special account or accounts of the Arkansas~~
26 ~~Turnpike Authority in such depository banks or trust companies as may from~~
27 ~~time to time be designated by the authority, with the accounts to be~~
28 ~~appropriately designated to indicate the particular turnpike project~~
29 ~~involved.~~

30
31 ~~27-71-302. Use of revenues.~~

32 ~~The turnpike project revenues are declared to be cash funds restricted~~
33 ~~in their use and dedicated and to be used solely as authorized in this~~
34 ~~chapter. The revenues shall be used:~~

35 ~~(1) To pay the reasonable expenses of maintenance, repair, and~~
36 ~~operation of the turnpike project or projects involved;~~

1 ~~(2) To pay as due the debt service on all revenue bonds to which~~
2 ~~revenues of the project or projects are pledged, including the original issue~~
3 ~~or issues, bonds issued for reconstruction and extension, and refunding~~
4 ~~bonds, as in this chapter authorized;~~

5 ~~(3) For the establishing or, once established, for maintaining any~~
6 ~~reserves as provided in the authorizing resolution or the trust indenture;~~

7 ~~(4) For the redemption of bonds prior to maturity, if provision is~~
8 ~~made for redemption, all as shall be specified in detail in the trust~~
9 ~~indenture, and all indentures supplemental thereto, securing the bonds.~~

10
11 ~~27-71-303. Tolls.~~

12 ~~(a) The authority is authorized to fix, revise, charge, and collect~~
13 ~~tolls for the use of each turnpike project and the different parts or~~
14 ~~sections thereof and to contract with any person, partnership, association,~~
15 ~~corporation, or organization desiring the use of any part thereof, including~~
16 ~~the right-of-way adjoining the paved portion, for placing thereon telephone,~~
17 ~~telegraph, electric light or power lines, motor fuel service stations,~~
18 ~~garages, restaurants, and other facilities, or for any other purpose, and to~~
19 ~~fix the terms, conditions, rents, and rates of charges for use. However,~~
20 ~~public utilities, rural cooperatives, political subdivisions, and pipeline~~
21 ~~companies may construct and maintain crossings of turnpike projects with~~
22 ~~their facilities, without charge, if the facilities are constructed and~~
23 ~~maintained in compliance with reasonable requirements of public safety and~~
24 ~~all costs of restoring the project to as good a condition as it was before~~
25 ~~being disturbed are paid by the owner of the facilities.~~

26 ~~(b) The tolls shall not be subject to supervision or regulation by any~~
27 ~~other commission, board, bureau, or agency of the State of Arkansas.~~

28
29 ~~27-71-304. Contracts with retail establishments — Bids.~~

30 ~~(a) All contracts made by the authority for establishments selling at~~
31 ~~retail, including, without limitation, motor fuel service stations, garages,~~
32 ~~and restaurants, shall be made separately for each establishment and shall be~~
33 ~~made on the basis of the best responsible bid received after advertisement~~
34 ~~for sealed bids for each separate establishment published not less than once~~
35 ~~a week for two (2) consecutive weeks with the first publication at least~~
36 ~~fifteen (15) days prior to the bid date in a newspaper of general circulation~~

1 ~~throughout the State of Arkansas.~~

2 ~~(b) The notice shall state the general character of the establishment~~
3 ~~involved, where plans and specifications may be examined if they are~~
4 ~~available in connection with the bidding, and the time and place for~~
5 ~~receiving bids.~~

6 ~~(c) Each bid shall specify full information concerning the identity of~~
7 ~~the bidder and its financial ability, to the extent requested by the~~
8 ~~authority, to perform if awarded the contract.~~

9 ~~(d) The authority may insert other provisions in each notice as it~~
10 ~~deems appropriate and may reject any and all bids.~~

11
12 ~~27-71-305. Gasoline tax deemed part of project revenues.~~

13 ~~(a) Turnpike gasoline tax revenues shall, for all purposes of this~~
14 ~~chapter, be deemed part of the turnpike project revenues.~~

15 ~~(b) It is found and declared by the General Assembly that:~~

16 ~~(1) Turnpike gasoline tax revenues are directly related to the~~
17 ~~construction and operation of turnpike projects and are to be considered as~~
18 ~~part of the revenues derived from the turnpike project involved rather than~~
19 ~~taxes as that term is understood for cash funds purposes; and~~

20 ~~(2) The procedure set forth in this subchapter is a reasonable~~
21 ~~and valid method for the determination of turnpike gasoline tax revenues~~
22 ~~attributable to a turnpike project.~~

23 ~~(c) Therefore, upon full and thorough investigation and evaluation of~~
24 ~~the pertinent facts, it is found and declared that turnpike project revenues~~
25 ~~as determined by the procedure set forth in this subchapter are, and shall be~~
26 ~~conclusively treated as, revenues derived from the particular turnpike~~
27 ~~project involved.~~

28
29 ~~27-71-306. Determination of revenue from gasoline tax.~~

30 ~~(a) As part of the study and determination of the authority required~~
31 ~~by § 27-71-208, the authority shall determine, according to the formula~~
32 ~~hereinafter set forth, the projected revenues to be derived from the motor~~
33 ~~fuel taxes, which are the taxes levied and collected under the Motor Fuel Tax~~
34 ~~Law and the Special Motor Fuels Tax Law, or any similar law or laws hereafter~~
35 ~~enacted, commonly referred to as the gasoline tax, to be paid on all fuels to~~
36 ~~be consumed annually on each turnpike project.~~

1 ~~(b) To determine turnpike gasoline tax revenues, the authority shall~~
2 ~~divide the total miles projected to be traveled on each turnpike project by~~
3 ~~Class A vehicles, which include automobiles, except buses, with a capacity of~~
4 ~~fewer than eight (8) passengers; Class B vehicles, which include truck type~~
5 ~~vehicles, except buses, with a factory rating and gross loaded weight of~~
6 ~~twenty two thousand five hundred pounds (22,500 lbs) or less; Class C~~
7 ~~vehicles, which include all vehicles, except buses, with a factory rating in~~
8 ~~excess of twenty two thousand five hundred pounds (22,500 lbs) or whose gross~~
9 ~~loaded weight exceeds twenty two thousand five hundred pounds (22,500 lbs);~~
10 ~~and Class D vehicles, which include buses rated and licensed as such, by the~~
11 ~~average number of miles per gallon of motor fuel consumed by each of those~~
12 ~~classes of vehicles. To determine the total miles projected to be traveled,~~
13 ~~the authority shall initially take into consideration the feasibility study~~
14 ~~and thereafter take into consideration actual usage plus any other known or~~
15 ~~reasonably anticipated factors affecting or reasonably expected to affect~~
16 ~~usage. The following consumption rates shall be used:~~

17	Class A Vehicles	10 miles per gallon
18	Class B Vehicles	6 miles per gallon
19	Class C Vehicles	4 miles per gallon
20	Class D Vehicles	5 miles per gallon

21 ~~(c) The amount so determined is designated turnpike gasoline tax~~
22 ~~revenues.~~

23 ~~(d) Turnpike gasoline tax revenues shall be determined separately for~~
24 ~~each turnpike project.~~

25 ~~(e) The authority may make a new determination at any time, but not~~
26 ~~more than once in any twelve month period.~~

27
28 ~~27-71-307. Resolution showing gasoline tax revenues—Payment to~~
29 ~~authority.~~

30 ~~(a) The determination by the authority of turnpike gasoline tax~~
31 ~~revenues, as projected, shall be set forth in a resolution of the authority,~~
32 ~~a certified copy of which shall be filed with the Director of the Department~~
33 ~~of Finance and Administration.~~

34 ~~(b) Upon receipt of the resolution, the Director of the Department of~~
35 ~~Finance and Administration shall pay over to the authority on or before the~~
36 ~~tenth day of each month, from general gasoline tax receipts, an amount equal~~

1 to one twelfth (1/12) of the annual amount of turnpike gasoline tax revenues,
2 as set forth in such resolution, until there is filed with the Director of
3 the Department of Finance and Administration a certified copy of a resolution
4 setting forth a new determination of annual turnpike project revenues.

5 (c) After each new resolution is filed, the director shall pay over to
6 the authority, in the manner set forth above, monthly, one twelfth (1/12) of
7 the newly determined annual amount.

8
9 ~~27-71-308. Disposition of revenue.~~

10 (a) Turnpike gasoline tax revenues are declared to be cash funds
11 restricted in their use and dedicated and to be used solely as authorized in
12 this chapter.

13 (b) Notwithstanding the provisions of the Arkansas Highway Revenue
14 Distribution Law, § 27-70-201 et seq., or any other law concerning or
15 pertaining to gasoline taxes, the turnpike gasoline tax revenues, subject to
16 the subsequent provisions hereof, shall not be paid into the State Treasury
17 and shall not become part of highway revenues. They shall be paid directly to
18 the authority each month and shall be and become part of the revenues for the
19 turnpike project for which applicable, as in this chapter set forth.

20 (c) The amount of the motor fuel taxes paid on fuels consumed on each
21 turnpike project in excess of turnpike gasoline tax revenues shall be and
22 remain highway revenues and be handled as provided in the Arkansas Highway
23 Revenue Distribution Law, § 27-70-201 et seq., or other applicable law at the
24 time controlling highway revenues.

25 (d) So long as any bonds are outstanding hereunder, if any changes are
26 made by the General Assembly in motor fuel taxes or in the distribution of
27 highway revenues, they must be such that substantially the same amount of
28 turnpike gasoline tax revenues will be received by the authority as would
29 have been received had there been no changes.

30 (e) Anything herein to the contrary notwithstanding, the authority
31 shall adopt a resolution setting forth the facts recited in subdivisions (1)
32 and (2) of this subsection and shall file a certified copy of the resolution
33 with the trustee under the trust indenture and a certified copy with the
34 Director of the Department of Finance and Administration if, at the end of
35 any fiscal year, revenues of any turnpike project exclusive of turnpike
36 gasoline tax revenues allocated to that turnpike project for the fiscal year

1 ~~just ended were sufficient in amount;~~

2 ~~(1) To cover expenses of maintenance, repair, and operation of~~
 3 ~~that turnpike project for the next fiscal year as estimated by the authority;~~

4 ~~(2) To pay the debt service on outstanding revenue bonds to~~
 5 ~~which the revenues of that turnpike project are pledged and to comply with~~
 6 ~~any other provisions of the trust indenture pertaining to the maintenance of~~
 7 ~~revenues at specified levels.~~

8 ~~(f) Upon receipt of the resolution, the Director of the Department of~~
 9 ~~Finance and Administration shall not pay turnpike gasoline tax revenues to~~
 10 ~~the authority for the remainder of the fiscal year in which the resolution is~~
 11 ~~received but shall handle the turnpike gasoline tax revenues as other highway~~
 12 ~~revenues.~~

13 ~~(g) Each resolution shall be applicable for one (1) fiscal year only.~~
 14 ~~Beginning with the next succeeding fiscal year, the provisions of this~~
 15 ~~section shall automatically become applicable and remain so until the facts~~
 16 ~~warrant another resolution and the resolution is adopted and filed as~~
 17 ~~above.~~

18
 19 SECTION 10. Arkansas Code §§ 27-71-401 through 27-71-411 are repealed.
 20 ~~27-71-401. Issuance to finance turnpike projects.~~

21 ~~(a) The authority is authorized and empowered to issue turnpike~~
 22 ~~revenue bonds from time to time in principal amounts sufficient to pay the~~
 23 ~~costs of a turnpike project.~~

24 ~~(b) For a turnpike project:~~

25 ~~(1) There may be more than one (1) issue of bonds;~~

26 ~~(2) There may be one (1) issue sold and delivered in series;~~

27 ~~(3) There may be a subsequent issue or subsequent issues of~~
 28 ~~bonds for all or any of the following purposes:~~

29 ~~(A) Completing the construction of a turnpike project;~~

30 ~~(B) Reconstruction work on a turnpike project when the~~
 31 ~~amount involved is such that it cannot be handled as an item of maintenance~~
 32 ~~and repair out of turnpike project revenues; or~~

33 ~~(C) The extension of a turnpike project.~~

34 ~~(c) The issues set out in subdivision (b)(3) of this section are~~
 35 ~~subject in each instance to such conditions concerning available and~~
 36 ~~estimated turnpike project revenues and other conditions ensuring prompt~~

1 ~~payment of the debt service on subsequent bond issues as the authority shall~~
2 ~~determine and specify in its authorizing resolution or in the trust indenture~~
3 ~~securing the bonds.~~

4 ~~(d) In all instances, priority between and among issues and successive~~
5 ~~issues shall be controlled by the authorizing resolution or by the trust~~
6 ~~indenture securing the bonds.~~

7 ~~(e) Turnpike revenue bonds shall have all the qualities of negotiable~~
8 ~~instruments under the laws of the State of Arkansas, subject to the~~
9 ~~provisions of this chapter regarding registration.~~

10
11 ~~27-71-402. Authorizing resolution—Terms.~~

12 ~~(a) Turnpike revenue bonds shall be authorized by resolution of the~~
13 ~~authority, the "authorizing resolution".~~

14 ~~(b) They may be coupon bonds, payable to bearer, or may be registrable~~
15 ~~as to both principal and interest without coupons and may be made~~
16 ~~exchangeable for bonds of another denomination, which bonds of another~~
17 ~~denomination may in turn be either coupon bonds payable to bearer or bonds~~
18 ~~registrable as to principal only or as to principal and interest with~~
19 ~~coupons, or bonds registrable as to principal and interest without coupons.~~

20 ~~(c) The bonds may be in such form and denominations; the bonds may~~
21 ~~have such date or dates; the bonds may mature at such time or times; the~~
22 ~~bonds may bear interest payable at such time or times and at such rate or~~
23 ~~rates, provided that no bonds may bear interest at a rate exceeding ten~~
24 ~~percent (10%) per annum; the bonds may be payable at such place or places~~
25 ~~within or without the State of Arkansas; the bonds may be subject to such~~
26 ~~terms of redemption in advance of maturity at such prices, including such~~
27 ~~premiums; and the bonds may contain such terms and provisions, all as the~~
28 ~~authority shall determine.~~

29 ~~(d) The authorizing resolution may contain any other terms, covenants,~~
30 ~~and conditions that are deemed desirable by the authority, including, without~~
31 ~~limitation, those pertaining to the custody, investment, and application of~~
32 ~~bond proceeds, the maintenance of various funds reserves, the nature and~~
33 ~~extent of the security, and the rights, duties, and obligations of the~~
34 ~~authority and of the holders and registered owners of the bonds.~~

35
36 ~~27-71-403. Trust indenture.~~

1 ~~The authorizing resolution may provide for the execution by the~~
2 ~~authority with a bank or trust company within or without the State of~~
3 ~~Arkansas of a trust indenture. The trust indenture may control the priority~~
4 ~~between and among successive issues and series and may contain any other~~
5 ~~terms, covenants, and conditions that are deemed desirable, including,~~
6 ~~without limitation, those pertaining to the custody and application of the~~
7 ~~proceeds of bonds; the collection and disposition of turnpike project~~
8 ~~revenues; the maintenance of various funds and reserves; the nature and~~
9 ~~extent of the security, the rights, duties, and obligations of the authority~~
10 ~~and the trustee for the holders or registered owners of the bonds; and the~~
11 ~~rights of the holders or registered owners of the bonds.~~

12
13 ~~27-71-404.—Sale.~~

14 ~~(a) Bonds issued under the authority of this chapter may be sold at~~
15 ~~public or private sale, as determined by the authority.~~

16 ~~(b) If sold at public sale, the bonds shall be sold on sealed bids,~~
17 ~~and notice of the sale shall be published once in a newspaper published in~~
18 ~~the City of Little Rock, and having a general circulation throughout the~~
19 ~~State of Arkansas, at least twenty (20) days prior to the date of sale.~~

20 ~~(c) In either case, the bonds may be sold at such price as the~~
21 ~~authority may accept, including sale at a discount. In no event shall any bid~~
22 ~~or price be accepted which results in a net interest cost, which is~~
23 ~~determined by computing the aggregate interest cost from date to maturity at~~
24 ~~the rate or rates bid and deducting any premium or adding the amount of any~~
25 ~~discount, in excess of the interest cost computed at par for bonds bearing~~
26 ~~interest at the rate of ten percent (10%) per annum.~~

27 ~~(d) The award at any public sale, if made, shall be to the bidder~~
28 ~~whose bid results in the lowest net interest cost.~~

29
30 ~~27-71-405.—Execution.~~

31 ~~(a) Bonds shall be executed by the manual or facsimile signature of~~
32 ~~the chairman of the authority and by the manual signature of the secretary of~~
33 ~~the authority.~~

34 ~~(b) Coupons attached to the bonds shall be executed by the facsimile~~
35 ~~signature of the chairman of the authority.~~

36 ~~(c) In case any of the officers whose signatures appear on the bonds~~

1 ~~or coupons shall cease to be officers before the delivery date of the bonds~~
2 ~~or coupons, their signatures shall, nevertheless, be valid and sufficient for~~
3 ~~all purposes.~~

4 ~~(d) The authority shall adopt and use a seal in the execution and~~
5 ~~issuance of bonds, and each bond shall be sealed with the seal of the~~
6 ~~authority.~~

7
8 ~~27-71-406. Liability on bonds.~~

9 ~~(a) It shall be plainly stated on the face of each bond that it has~~
10 ~~been issued under the provisions of this chapter, and the bonds issued~~
11 ~~hereunder shall be obligations only of the authority. In no event shall they~~
12 ~~constitute an indebtedness for which the faith and credit of the State of~~
13 ~~Arkansas or any of its revenues are pledged, and the bonds shall not be~~
14 ~~secured by a mortgage or lien on any land or building belonging to the State~~
15 ~~of Arkansas.~~

16 ~~(b) No member of the authority shall be personally liable on the bonds~~
17 ~~or for any damages sustained by anyone in connection with any contracts~~
18 ~~entered into in carrying out the purposes and intent of this chapter unless~~
19 ~~that member shall have acted with a corrupt intent.~~

20
21 ~~27-71-407. Security and payment.~~

22 ~~(a) The principal of and interest on all bonds issued under the powers~~
23 ~~of this chapter shall be secured by a pledge of, and shall be payable from,~~
24 ~~turnpike project revenues.~~

25 ~~(1) The pledge of revenues to the payment of the principal of~~
26 ~~and interest on the bonds shall be valid and binding from the time the pledge~~
27 ~~is made.~~

28 ~~(2) The turnpike project revenues so pledged shall immediately~~
29 ~~be subject to the lien of the pledge without any physical delivery thereof or~~
30 ~~further act.~~

31 ~~(3) The lien of the pledge shall be valid and binding as against~~
32 ~~all parties having claims of any kind in tort, contract, or otherwise against~~
33 ~~the authority, irrespective of whether such parties have notice thereof.~~

34 ~~(4) Neither the authorizing resolution nor any trust indenture~~
35 ~~by which a pledge is created need be filed or recorded in any office or other~~
36 ~~place except in the records of the authority and in the office of the Circuit~~

1 Clerk and ex officio recorder of Pulaski County.

2 (b) ~~Principal and interest shall not be secured by a statutory or~~
3 ~~foreclosable mortgage lien on the turnpike project or any of the facilities~~
4 ~~of or in connection with the turnpike project.~~

5 (c)(1) ~~Each resolution authorizing the issuance of bonds and each~~
6 ~~trust indenture executed and delivered to secure the bonds and this chapter~~
7 ~~shall constitute a contract by and between the authority and the holders and~~
8 ~~registered owners of all bonds issued under the powers of this chapter.~~

9 (2) ~~Any contract and all covenants, agreements, and obligations~~
10 ~~therein, including, without limitation, an obligation on the part of the~~
11 ~~authority to always operate a turnpike project as a revenue producing~~
12 ~~undertaking so long as any bonds are outstanding, to properly maintain the~~
13 ~~turnpike project, and to charge and collect turnpike project revenues in~~
14 ~~required amounts, all as specified in detail in the authorizing resolution,~~
15 ~~the trust indenture, and in this chapter shall be promptly performed in~~
16 ~~strict accordance with the terms and provisions of the contract.~~

17 (3) ~~The contract and all rights of the trustee and holders and~~
18 ~~registered owners of the bonds and the obligations of the authority may be~~
19 ~~enforced by mandamus or any other appropriate proceeding at law or in equity.~~

20
21 ~~27-71-408. Refunding bonds.~~

22 (a) ~~Revenue bonds may be issued for the purpose of refunding any bonds~~
23 ~~issued under the powers of this chapter.~~

24 (b) ~~These refunding bonds may be combined into a single issue with~~
25 ~~revenue bonds issued for the purpose of completing, reconstructing, or~~
26 ~~extending the turnpike project.~~

27 (c) ~~Refunding bonds may either be sold or delivered in exchange for~~
28 ~~the bonds being refunded.~~

29 (d) ~~If sold, the proceeds may be either applied to the payment of the~~
30 ~~bonds being refunded or deposited in trust and there maintained in cash or~~
31 ~~investments for the retirement thereof, as shall be specified by the~~
32 ~~authority in the trust indenture securing the refunding bonds.~~

33 (e) ~~The resolution authorizing and the trust indenture securing the~~
34 ~~refunding bonds may provide that the refunding bonds shall have the same~~
35 ~~priority of lien on turnpike project revenues pledged for their payment as~~
36 ~~was enjoyed by the bonds refunded thereby.~~

1 ~~(f) Refunding bonds shall be sold and secured in accordance with the~~
2 ~~provisions of this chapter pertaining to the sale and security of revenue~~
3 ~~bonds.~~

4
5 ~~27-71-409. Scope of revenue bonds as securities.~~

6 ~~(a) Revenue bonds issued under the authority of this chapter are made~~
7 ~~securities in which all insurance companies, trust companies, banks,~~
8 ~~investment companies, executors, administrators, trustees, and other~~
9 ~~fiduciaries may properly and legally invest funds, including capital in their~~
10 ~~control or belonging to them.~~

11 ~~(b) The bonds are made securities which may properly and legally be~~
12 ~~deposited with and received by any state or municipal officer or any agency~~
13 ~~or political subdivision of the state for any purpose for which the deposit~~
14 ~~of bonds or obligations of the state is now or may be authorized by law. Any~~
15 ~~municipality or county, or any board, commission, or other authority duly~~
16 ~~established by any municipality or county, or the boards of trustees,~~
17 ~~respectively, of any retirement fund or retirement system created by or~~
18 ~~pursuant to authority conferred by the General Assembly may, in its~~
19 ~~discretion, invest any of its funds not immediately needed for its purposes~~
20 ~~in bonds issued under the authority of this chapter. Bonds issued under the~~
21 ~~authority of this chapter shall be eligible to secure the deposit of public~~
22 ~~funds.~~

23
24 ~~27-71-410. Tax exemption.~~

25 ~~The principal of and interest on bonds issued under the authority of~~
26 ~~this chapter shall be exempt from all state, county, and municipal taxes, and~~
27 ~~this exemption shall include income, inheritance, and estate taxes.~~

28
29 ~~27-71-411. Final payment of principal and interest of outstanding~~
30 ~~revenue bonds.~~

31 ~~(a) Except as provided in this section, when the principal of and~~
32 ~~interest on all bonds issued under this chapter in connection with a~~
33 ~~particular turnpike project shall have been paid, or the required provision~~
34 ~~made for their payment, that turnpike project, upon resolution of the~~
35 ~~authority, shall be and become a part of the state highway system and shall~~
36 ~~thereafter be maintained and operated by the State Highway Commission free of~~

1 ~~tolls and charges.~~

2 ~~(b) At the time of the final payment of principal and interest or the~~
3 ~~making of adequate provision therefor, of outstanding revenue bonds with~~
4 ~~reference to a particular turnpike project, the authority may determine and~~
5 ~~declare, by resolution entered in its records, that the turnpike project~~
6 ~~involved is not to become part of the state highway system but is to continue~~
7 ~~to be operated and the turnpike project revenues derived therefrom are to be~~
8 ~~pledged to and used for the payment of revenue bonds issued for financing the~~
9 ~~cost of another turnpike project or other turnpike projects.~~

10
11 SECTION 11. EMERGENCY CLAUSE. It is found and determined by the
12 General Assembly of the State of Arkansas that there is an immediate need for
13 the planning and development of certain turnpike projects within the State of
14 Arkansas, and that the planning and development will be facilitated by this
15 act having immediate effect. Therefore, an emergency is declared to exist
16 and this act being immediately necessary for the preservation of the public
17 peace, health and safety shall become effective on:

18 (1) The date of its approval by the Governor;

19 (2) If the bill is neither approved nor vetoed by the Governor, the
20 expiration of the period of time during which the Governor may veto the bill;
21 or

22 (3) If the bill is vetoed by the Governor and the veto is overridden,
23 the date the last house overrides the veto.

24
25 /s/ Bisbee

26
27
28 **APPROVED: 3/4/2003**